

MINUTES

INDIANA BOARD OF VETERINARY MEDICAL EXAMINERS

JANUARY 30, 2008

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Welp called the meeting to order at 9:00 a.m. in the Professional Licensing Agency Conference Room W064, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

Board Members Present:

Ralph Welp, D.V.M. – Chairman
Dawn Frank, D.V.M. – Vice Chairman
Richard Headley, D.V.M.
Patricia Kovach, D.V.M.
Brett Marsh, D.V.M., State Veterinarian
Frank Andrew, Consumer Member

Board Members Absent:

Robin Waltz, D.V.M.

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Kristine Yarde, Assistant Board Director, Professional Licensing Agency
Becky Walker, Deputy Attorney General, Office of the Attorney General
Phillip Thompson, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF THE AGENDA

A motion was made and seconded to adopt the agenda.

FRANK/HEADLEY
Motion carried 5-0-0

III. ADOPTION OF THE MINUTES FROM THE NOVEMBER 28, 2007 MEETING OF THE BOARD

A motion was made and seconded to adopt the minutes from the November 28, 2007 meeting of the Board.

FRANK/HEADLEY
Motion carried 5-0-0

IV. APPEARANCES

A. RENEWAL

B. PROBATIONARY

1. State of Indiana v. Todd Cooney, D.V.M., License No. 24004650A
Administrative Cause No. 2005 VB 0007

Dr. Cooney appeared before the Board, as requested, regarding his ongoing probationary status. Dr. Cooney informed the Board he got his CSR reinstated by the Controlled Substance Advisory Committee but his DEA is still pending. He advised he is still practicing solo and 90% of the practice is small animal. Dr. Cooney is in compliance with his probation order and the Board had no concerns. His next personal appearance will be May 28, 2008.

2. State of Indiana v. Carol Dartz, D.V.M., License No. 24003804A
Administrative Cause No. 99 VB 005

Dr. Dartz appeared before the Board, as requested, regarding her ongoing probationary status. She reported things are going well and she now has four veterinarians in her practice so she is working about thirty hours a week. She brought with her the results of her most recent drug screen and all results continue to be negative. She has been taking Antabuse for almost one year and is going to speak with her doctor about discontinuing the drug. She continues in Counseling and attends AA meetings and her women's group. She told the Board her sobriety date is December 20, 2006. Her next appearance will be May 28, 2008.

3. State of Indiana v. Peter L. Johnson, D.V.M., License No. 24003630A
Administrative Cause No. 2005 VB 0019

Dr. Johnson appeared before the Board, as requested, regarding his ongoing probationary status. He is in full compliance with his probation order and says all advertising is done by Banfield's corporate office. His next appearance will be set for the July meeting at which time he expressed the desire to have an administrative hearing to have the probation order withdrawn.

C. APPLICATIONS

1. Timothy James Buback, D.V.M.

Dr. Buback appeared before the Board, as requested, regarding his application for an Indiana veterinary license. Dr. Buback is a 1992 graduate from the University of Missouri and has taken and passed the National Board Examination and Clinical Competency Test in 1991. On his application he answered "no" to all the questions and the Board received information from the Texas Veterinary Board that in 1994 he was issued an official reprimand as the result of a negotiated settlement for failure to maintain patient records that contain history, dates of visits, names and dosages of medications administered and/or dispensed, and other details to substantiate diagnosis and treatment. Dr. Buback told the Board that he did not answer "yes" on his application with regards to past disciplinary action because he thought it was a non-issue. He explained that he practiced in Texas for three years after graduation and then he and his wife moved to Atlanta, Georgia for five years. They then moved to Appleton, Wisconsin where his wife practiced for another five years before moving to Fishers, Indiana in 2006. He stated he has not practiced veterinary medicine since 2001 and has been a stay at home parent to his children while his wife has practiced. His Wisconsin license just expired in December 2007 so at this time he does not have an active license to practice in any state. Dr. Buback told the Board he does not have any plans to practice in Indiana at this time but should he want to he would want to be an associate veterinarian with another

veterinarian. Dr. Buback stated the last continuing education he had was in 2005 at the Wisconsin Veterinary Medical Association and he feels confident in his ability to practice. The Board expressed concerns about his ability to practice and be current with new theories, medicines, and techniques.

Board Action: A motion was made and seconded to table the decision about whether or not to grant a license to Dr. Buback pending completion of forty (40) hours of current continuing education and two (2) weeks or eighty (80) hours observing the practice of an AAHA Hospital under the direct supervision of a veterinarian.

HEADLEY/ANDREW

Motion amended by FRANK/KOVACH

Motion carried 5-0-0

V. ADMINISTRATIVE HEARINGS

- A. State of Indiana v. Rachel B. Clark, D.V.M., License No. 24003461A**
Administrative Cause No. 96 VB 0007
Re: Request for Reinstatement of Licensure

Parties and Counsel Present:

Respondent was present and was not represented by Counsel
Mark Mader, Deputy Attorney General for the State of Indiana
Sherry Rutledge, Court Reporter

Participating Board Members:

Dr. Welp (Hearing Officer)
Dr. Frank
Dr. Headley
Dr. Kovach
Mr. Andrew
Dr. Marsh

Case Summary: Respondent read a statement to the Board asking for her Indiana veterinary license to be reinstated. She stated she has been clean from drugs for twelve (12) years and successfully completed a drug counseling program at Fairbanks. She stated she has kept current on her continuing education and has a legitimate German Shepherd breeding business. She denied that her home was ever used as a veterinary clinic or hospital and that she never advertised it as such. She denied any negligent or mistreatment of animals. She explained her license was suspended in 1996 due to a drug problem and she was not able to enter treatment at that time because of her animals she had to take care of. The State objected to the Respondent trying to re-litigate what had already been found as fact in a prior hearing and requested she comment only on what has occurred since February 18, 2003 when her license was re-suspended by a Board order. The State noted that her license was suspended a third time because she failed to comply with the terms and conditions of the probation order issued December 11, 2002. She stated she is a good veterinarian and the probation conditions that the Board placed on her license would have made it impossible for someone to employ her. She expressed extreme anger at Rafael Sanchez, a news reporter who did a story on the conditions of the animals at her house and she vehemently asserts that she earned her Doctor of Veterinary Medicine degree and even though her license is suspended she feels she is entitled to use the letters "D.V.M." after her name.

She claims that helps people to know she is not stupid when they ask her questions about their animals but claims she has not treated any animals except her own. The Respondent told the Board she has bought many books and kept current on information pertaining to veterinary medicine. Respondent entered into evidence Exhibit #1 which is continuing education certificates. The Respondent called her first witness, Mr. Mark Null. Mr. Null testified that he is a retired Arcadia police officer and testified he never saw the Respondent practice veterinary medicine at her house. The Respondent called her second witness, Ms. Pia Smith. Ms. Smith testified that she is a personal friend of the Respondent and is involved in breeding dogs. She told the Board that she has never seen the Respondent practice veterinary medicine without a license. The State referred the Board to IC 25-1-9-11 Reinstatement of a Suspended License which says, "The board may reinstate a license which has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill and safety to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter." The State asked the Respondent to identify what was entered as Exhibit #1. Respondent identified it as a page from her website which is a certificate of membership from the Indiana Veterinary Medical Association stating Dr. Rachel Clark as a 2007 member in good standing. Her narrative describes her as being a retired veterinarian. The State asked the Respondent to identify what was entered as Exhibit #2. The Respondent identified it as another page from her website. The State made note of the fact that the letters "DVM" are listed after her name along with her address and phone number. The State asked the Respondent to identify what was entered as Exhibit #3. The Respondent again stated it was a page from her website and specifically that it lists her name followed by the letters "DVM" as well as what appears to be a business address and phone number. The Respondent said it is a kennel address. The State read the part of the definition of the practice of veterinary medicine which states, "representing oneself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches or using words, letters, or titles in a connection of under circumstances that may induce another person to believe that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry." The State argued that by using "DVM" a lay person would conclude that she is licensed veterinarian. The State further argued that the Board Order from February 18, 2003 listed three (3) conditions precedent to the Respondent requesting reinstatement of her license. The first is that the Respondent shall successfully complete an addiction evaluation and follow all treatment recommendations at Fairbanks Hospital or another treatment center approved by the Board. The State noted she had not met this requirement because she did not provide the Board with an addictionology evaluation. The second condition was that the Respondent shall complete a minimum of forty (40) hours of continuing education. The State noted the Respondent has fulfilled this requirement. The third condition states the Respondent shall be prohibited from practicing veterinary medicine of any kind as defined by IC 15-5-1.1-2. The State noted that she failed to meet this requirement as evidenced by the pages taken from her website whereby she uses the letters "DVM" following her name. The State asked the Respondent if she was aware that she cannot practice veterinary medicine. She responded that she has not practiced veterinary medicine but will use her knowledge to answer questions for people but does not charge and she uses "DVM" after her name because that is the degree she earned and she is proud of it. The Board asked her to tell them the date that she last practiced as a licensed veterinarian and the Respondent could not recall. The State feels the Respondent has only met one (1) of the three (3) conditions precedent to reinstatement and does not feel that the Respondent has

demonstrated the ability to practice competently with skill and safety to the public.

Board Action: A motion was made and seconded to deny the Respondent's request for reinstatement and that if the Respondent wishes to petition the Board for reinstatement of licensure in the future that she must have a current addictionology assessment which also attests to her emotional and psychological health.

ANDREW/HEADLEY
Motion carried 5-0-0

Board Action: An amended motion was also made that the Respondent removes the words or letters designating doctor "Dr." or D.V.M from her website.

KOVACH/FRANK
Motion carried 5-0-0

VII. SETTLEMENT AGREEMENTS

There were no settlement agreements.

VIII. NOTICE OF PROPOSED DEFAULT

There were no Notice of Proposed Default's before the Board.

IX. DISCUSSION

A. Rob Lydon, D.V.M.

The Board reviewed a letter from Dr. Lydon asking about Indiana's laws as it pertains to "telemedicine". Ms. Vaught told the Board telemedicine is not defined within the law but would not be acceptable because the law required direct supervision. Ms. Vaught will send him a copy of the Indiana Statutes and Rules.

B. National Board Report

The Board took notice of the NBVME's national board report.

C. NAVLE Results

Ms. Vaught told the Board that the November-December 2007 NAVLE had 59 candidates and only one candidate failed the exam.

D. Veterinary Technician National Examination

Ms. Vaught told the Board that the January 18, 2008 administration of the VTNE was given to 94 candidates and went very well. The results are still yet to be received.

X. APPLICATION REVIEW

A. Endorsement

1. Amy Teresa Boxberger, D.V.M.

The Board reviewed the application file for Dr. Boxberger because on her application she answered "yes" to question #2 asking, "Has disciplinary action ever been taken regarding any health license, certificate, registration, or permit that you hold or have held?" She explained in a notarized written statement that in 2004 while applying for licensure in California she was practicing in Michigan. She obtained her California license in May 2004 and moved to San Francisco, California. She failed to update the California Veterinary Medical Board of her change of address and as a result did not receive a notice to renew her license. She became aware of her expired license in March 2007 and was issued a citation and fine from the California Veterinary Medical Board. She paid the fine and renewed her license. Dr. Boxberger is a 2002 graduate from Michigan State University and has taken and passed the NAVLE examination in 2001.

Board Action: A motion was made and seconded to grant Dr. Boxberger a veterinary license upon passing the Indiana law examination.

FRANK/KOVACH
Motion carried 4-0-0

B. Examination

There were no examination applications for the Board to review.

C. North American Veterinary Licensing Examination (NAVLE)

There were no NAVLE applications for the Board to review

D. Professional Corporation

There were no professional corporation applications for the Board to review

XI. PROBATIONARY REPORT

There were no probationary reports.

XII. CONTINUING EDUCATION

A. Veterinary Orthopedic Manipulation

1. Non-Surgical Approach to Spinal Disease and Lameness
September 21-23, 2007
Indianapolis, Indiana
Hours Granted: Pending Approval by Dr. Welp

B. Fetch Academy

1. A Dog is a Terrible Thing to Waste- Behavior Problems and Solutions
June 21-22, 2008
Indianapolis, Indiana
Hours Granted: Pending Approval by Dr. Welp
2. How to Run a Dog Business- Putting Your Career Where Your Heart Is
March 14-16, 2008

Carmel, Indiana
Hours Granted: Pending approval by Dr. Welp

C. National Institute for Animal Agriculture

1. 2008 NIAA Annual Meeting "Animal Care and Well-Being: Facts Not Fiction"
March 31-April 4, 2008
Indianapolis, Indiana

Hours Granted: Pending Approval by Dr. Welp

XIV. REPORTS

A. Consumer Complaints

There was no report concerning consumer complaints

B. Controlled Substances Advisory Committee- Dr. Kovach

Dr. Kovach reported there was not anything that pertained to veterinarians. She noted the official report has been written about the *salvia divinorum* plant being abused for recreational purposes as a hallucinogen. The new director of INSPECT spoke and advised that if controlled substances are being dispensed for a supply longer than 48 hours then it needs to be reported to the INSPECT database within seven days of writing the prescription.

C. State Veterinarian's Report- Dr. Marsh

- Legislation is in session and BOAH has a grading bill for the grading of meats. At this time there is no grading in Indiana unless a federal grader comes in to grade it.
- He said they continue to get calls about the term "dispensing" being placed in the practice act under the definition of practicing veterinary medicine and the concerns some have about being put out of business.
- Dairy retailers want dairy producers to sign an affidavit that they are not treating cows that have been treated with RBST. RBST has been accepted for use but retailers do not want the milk from cows that have been treated with it. It is not detectable in the milk and producers do not want to sign an affidavit that says they do not use it when it cannot be proven either way.
- They are getting calls about horse starvation, cruelty, and neglect. The complaints should go to local law enforcement but they often do not know what to do and call the state. The horse rescues are full and export of horses to Mexico is up 300%. There is not yet a federal ban on horse slaughter and other options are being looked at such as Indian reservations which are sovereign land.
- Minnesota diagnosed its ninth cattle herd with TB and they have it in deer in many places.
- Border collie pups sold in Canada were found to be rabid so they are trying to get all the pups back.

XV. OLD/NEW BUSINESS

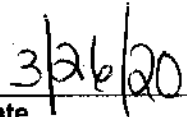
XVI. OTHER ITEMS FOR CONSIDERATION

XVII. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana Board of Veterinary Medical Examiners adjourned at 12:30p.m.



Ralph Welp, D.V.M., Chairman



Date

Dawn Frank, D.V.M., Vice Chairman

Date